

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

WAYMON CHESTER,	:	
	:	
Petitioner,	:	Civil No. 10-4192 (FSH)
	:	
v.	:	SECOND ORDER TO ANSWER
	:	
GREG BARTOWSKI, et al.,	:	
	:	
Respondents.	:	

A Petition for Writ of Habeas Corpus having been filed in the above action pursuant to 28 U.S.C. § 2254, and notice having been given pursuant to Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000), and Petitioner having responded that he wishes to proceed with the Petition as filed,

And an Order to Answer [7] having been entered on November 8, 2010;

And an Amended Order [14] having been entered on November 30, 2010, extending the time to answer to January 17, 2011;

And no answer having yet been filed;

IT IS on this 7th day of April, 2011,

ORDERED that Respondents shall electronically file a full and complete answer to said Petition within 30 days after the entry of this Order, see Ukawabutu v. Morton, 997 F.Supp. 605 (D.N.J. 1998); and it is further

ORDERED that Respondents' answer shall respond to the factual and legal allegations of the Petition by each paragraph

and subparagraph and shall adhere to Rule 5 of the Rules Governing Section 2254 Cases; and it is further

ORDERED that all non-jurisdictional affirmative defenses subject to waiver, such as timeliness, not raised in Respondents' answer or at the earliest practicable moment thereafter will be deemed waived, see Rule 5(b) of the Rules Governing § 2254 Cases; and it is further

ORDERED that the answer shall address the merits of each claim raised in the Petition, see 28 U.S.C. § 2254(b)(2); and it is further

ORDERED that Respondents' answer shall address, with respect to each claim raised in the Petition, whether Petitioner has made a substantial showing of the denial of a constitutional right justifying issuance of a certificate of appealability, see 28 U.S.C. § 2253(c)(2); and it is further

ORDERED that the answer shall indicate what transcripts (of pre-trial, trial, sentencing, or post-conviction proceedings) are available, when they can be furnished, and what proceedings have been recorded but not transcribed; and it is further

ORDERED that Respondents shall attach to the answer such parts of the transcript as Respondents consider relevant and, if a transcript cannot be obtained, Respondents may submit a narrative summary of the evidence, see Rule 5(c) of the Rules Governing § 2254 Cases; and it is further

ORDERED that Respondents shall file with the answer a copy of: (1) any brief that Petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding, (2) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence, and (3) the opinions and dispositive orders relating to the conviction or the sentence, see Rule 5(d) of the Rules Governing § 2254 Cases; and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further

ORDERED that Respondents shall electronically file the answer, the exhibits, and the list of exhibits; and it is further

ORDERED that all exhibits to the Answer must be identified by a descriptive name in the electronic filing entry, for example:

"Exhibit #1 Transcript of [type of proceeding] held on XX/XX/XXXX" or

"Exhibit #2 Opinion entered on XX/XX/XXXX by Judge YYYY";

and it is further

ORDERED that Petitioner may file and serve a reply to the answer within 30 days after Respondents file the answer, see Rule 5(e) of the Rules Governing § 2254 Cases; and it is further

ORDERED that, within 7 days after any change in Petitioner's custody status, be it release or otherwise, Respondents shall

electronically file a written notice of the same with the Clerk of the Court; and it is further

ORDERED that the Clerk of the Court shall serve this Order on Petitioner by regular mail.

s/ Faith S. Hochberg
Faith S. Hochberg
United States District Judge